

BR

IN THE
UNITED STATES DISTRICT COURT
FOR THE ~~NORTHERN~~ DISTRICT OF ~~ILLINOIS~~ **FILED**

James G. Turner - et,
Plaintiff,

-v-

Roger Walker, Jr., et al.,
Defendant(s).

AUG 1, 2008
AUG 1 2008 MB

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Case No. 08 CV 2742

The Honorable
James B. Zagel,
U.S. Judge presiding.

MOTION FOR RELIEF FROM JUDGEMENT *

COME NOW, the plaintiff James G. Turner - et,
Pro Se, pursuant F.R.C.P. Rule 60 (b) (6), and respect-
fully move this Honorable Court For Relief From
Judgement.

IN SUPPORT, plaintiff states:

1. This Court's Order of dismissal does not
take into account that even though Judge Moran
~~dismissed~~ dismissed complaint 86 C 8929 with preja-
dice pursuant an enforced settlement agreement
on November 18, 1988. He did enter terms of that
settlement agreement Pursuant Order nunc pro tunc
on December 12, 1988, and these terms must be
deemed as incorporated into the judgement? (See
Exhibits C and D attached).

* And for Order Authorizing the Honorable Clerk of the Court
to make copies of this pleading and serve both parties

2. And, even if terms of agreement are not incorporated into the judgement, does the fact, that the terms were made in such a way as to last the duration of plaintiff's imprisonment, still give the Court retained jurisdiction to enforce the agreement, when the debtor is derelict in his duties, or otherwise in Civil Contempt of a Federal Court Order?

3. Further, even though Judge Moran refuses to acknowledge that jurisdiction is still retained with the Federal Court where complaint is dismissed with prejudice; does fact that terms were incorporated into the judgement nunc pro tunc Force ancillary jurisdiction of the Court to enforce the settlement agreement, irregardless of dismissal with prejudice judgement, that would normally relieve the court of any further jurisdiction?

4. Plaintiff being confined to segregation cannot research authorities cited by the court, but, he offers questions, that may be deemed novel, that need interpretation, either by this Court or the Court of Appeals.

5. Plaintiff never asserted a Breach of Contract dispute herein.

6. Additionally, prisoners have no liberty or property interest in prison job assignment, but, because plaintiff's right

is an actual term of the settlement agreement, is it enforceable in Federal Court?

7. How can this Court or the Vansklike Court claim prisoners have no constitutional right to State/ idle pay, when, Illinois legislature codified its appropriation into law; further State of Illinois would not afford each prisoner in Illinois \$10.00 per month just for being imprisoned, unless it was State law; and because the law authorizes its issuance plaintiff has a due process right to it, as a property entitlement.

8. For all the foregoing reasons plaintiff requests relief from judgement.

9. Finally, did the Clerk of this Court err filing the instant complaint, where Judge Moran admonished clerk not to accept any further documents for filing in this case and to return any such documents to plaintiff unfiled. Even though a new lawsuit, where premised on case Judge Moran deemed closed?

10. And, if the clerk did err in filing documents in violation of a Federal Court Order, can plaintiff's prepayment of filing fees be reimbursed, since documents could never have been filed?

11. Plaintiff have posed viable questions entitling him

relief from judgement, that are novel and meritorious, that warrants further review, and reinstatement of complaint.

W H E R E F O R E, plaintiff prays this Honorable Court enter Order granting him relief from judgement and further authorizing Court Clerk to make copies of this pleading & serve all parties.

Respectfully submitted,

James M. Turner ED
James G. Turner
N-01161
M.C.C.
P.O. Box 711
Menard, IL. 62259

PLAINTIFF		DEFENDANT		DOCKET NO 8652
TURNER-EL, James G.		BRANCH, Superintendent, et al		PAGE 6 OF 7
DATE	NR.	PROCEEDINGS		
12/08/88		Mailed 12/08/88 to all counsel of record, copy of notice of appeal		
	MJG	Forwarded 12/08/88 to Judge Moran, copy of notice of appeal		
12/09/88	(70)	Minute order of 12/08/88: Defendants' motion for clarification of the order entered on November 18, 1988 is granted. (Draft Order to Follow) Moran, J.		
	QW	Mailed notice 12/09/88.		
	(71)	Filed 12/08/88: Notice of motion; Motion (Attachment).		
12/09/88	(72)	Minute order of 12/08/88: Filed defendants' motion for sanctions. Plaintiff answer to motion for sanctions to be filed by January 5, 1989. Reply to answer to be filed by January 17, 1989. Moran, J.		
	QW	Mailed notice 12/09/88.		
	(73)	Filed 12/08/88: Notice of motion; Motion; Memorandum in support of defendant's motion for sanctions (Attachments).		
12/14/88	(74)	Minute order of 12/13/88: Enter order munc pro tunc as of November 18, 1988: After hearing all of the evidence presented by the movants and the respondents this court has determined that the parties did agree to settle this matter June 2, 1988 on the following terms: Plaintiff agrees to release and discharge from liability all past, present and future agents and employees of the Ill of Corrections for all causes of action arising on or before June 2, 1988 in exchange for receiving from defendants the sum of \$580.00, a job in prison, a typewriter thru the prison law library and the following state loan: a fan, a radio and a color television set. Therefore, defendants motion to enforce settlement agreement is granted. Cause dismissed with prejudice pursuant to the settlement agreement. (For further detail, see order attached to original minute order form). Moran, J.		
	KS	Mailed notice 12/14/88.		
	(75)	Entered 12/14/88: Order.		
12/14/88	76	Mailed 12/12/88, U.S. Court of Appeals acknowledgment of receipt of these records, No. 88-2588-		
	KS			
12/15/88	77	Filed 12/09/88: Plaintiff's petition for writ of habeas corpus ad testificandum. N/A		
	KS	78 Filed 12/12/88: Plaintiff's motion for clarification of order. N/A		

KEY: ALL CIRCLED ITEMS ARE INCLUDED IN THIS RECORD ON APPEAL.

ITEMS CROSSED-OUT ARE NOT INCLUDED

N/A: ITEMS ARE NOT AVAILABLE IN THE DISTRICT COURT FILES.

Ex. "D"
(2 of 2)

TURNER-EL, James G.

BRANCH, Superintendent, et al

DOCKET NO. 86C8929

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PROCEEDINGS

- 07/02/88: (57) Filed 09/01/88: Plaintiff's notice of change of address.
- 01/06/88 (58) Filed 09/02/88: Defendant's notice of filing; Cautionary instruction to pro se prisoner.
EAV
- 09/13/88 (59) Filed 09/12/88: Plaintiff's motion for appointment of counsel (Attachments).
LC
- 01/03/88 (60) Filed 09/29/88: Notice of filing; Defendants' reply to plaintiff's response to defendants' motion to enforce settlement agreement.
EAV
- 01/12/88 (61) Filed 10/07/88: Plaintiff's response to defendant's reply to plaintiff's motion in opposition to enforce settlement agreement; Notice.
KS
- 07/25/88 (62) Minute order of 10/24/88: Evidentiary hearing set for November 18, 1988 at 10:00 AM. Status hearing held. Moran, J.
EAV
Mailed notice 10/25/88.
- 01/15/88 (63) Minute order of 11/15/88: On petitioner's motion, order a petition for writ of habeas corpus ad testificandum to issue to cause James G. Turner-El to be brought before this court on November 18, 1988 at 10:00 AM. Moran, J.
Mailed notice 11/15/88.
- ~~Filed 11/15/88: Notice of filing.~~
- (64) Filed 11/15/88: Petition for writ of habeas corpus ad testificandum.
- ~~Transmitted 11/15/88: Writ of habeas corpus ad testificandum and three certified copies with certified copy of order to U.S. Marshal.~~
- 07/25/88 (65) Minute order of 11/18/88: Evidentiary hearing held. Defendants' motion to enforce settlement agreement is granted. Cause dismissed with prejudice pursuant to the settlement agreement. Plaintiff's motion for appointment of counsel is denied. Plaintiff's oral motion to substitute a new judge is denied. (For further detail see order attached to the original minute order form). Moran, J.
Mailed notice 11/25/88.
- (67) Entered 11/18/88: Judgment. Clark.
- 03/88 (68) Filed 12/06/88: Plaintiff's NOTICE OF APPEAL re: order of 11/18/88 Motion to Stay Proceedings Pending Appeal; Motion for Transmission of the District Court's Records; Motion to Reconsider Order and Vacate Judgment; Affidavits; Exhibits and Notice of Filing.
- (69) Filed 12/06/88: Plaintiff's Motion for Leave to Proceed In Forma Pauperis on Appeal; Motion for Appointment of Counsel; Affidavits and Notice of Filing.

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~~Transmitted 12/08/88 to the US Court of Appeals for the Seventh Circuit the above Record on Appeal consisting of a transmitted record, stamped copy of notice of appeal, three certified copies of order, copy of order dated 11/18/88 and copy of judgment.~~

CONTINUED

Ex. "D"

(1 of 2)

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